

suggestion to make the claim combination and the reasonable expectation of its success must both be found in the prior art, and not based on the applicant's disclosure." MPEP § 2142.

Sanger provides a reflective handlebar device which is slipped over the end of a handlebar, preferably held upon the handlebar by friction or by an added adhesive or glue. The reflective cap, contained within the end of the rubber sleeve (not insert) is defined by the precise language of Sanger as "preferably in the form of a circular bull's-eye" (Page 2, lines 1-3), "colored lenses will be illuminated by the lights of an approaching vehicle" (page 2, lines 11-12), "will be visible to the driver of an automobile when he is approaching the bicycle rider from the rear to indicate the direction in which the bicycle is traveling" (Page 2, lines 4-8). At no point does the patent indicate that the reflector of Sanger is omnidirectional, nor provide its cap as a hemisphere-shaped reflective cap or having a multiplicity of facets. Sanger is a circular bull's-eye.

The reflector of the current invention, being hemispherical and multi-faceted, provides the reflector with a capability of being seen from "omnidirections" or multiple directions, including the sides or basically any direction in a 180 degree plane. The multiple facet disperse the light in many different directions, not just in the same line as the light source. Claim 3 further defines the facets being arranged "in a geometric pattern to maximize the potential for gathering and reflecting such light, providing the greatest reflective exposure from applied light....enhancing the recognition of the presence of the vehicle to which the device is applied..." (Claim 3).

Granted, the insert into the handlebar of Sargis bears similarity to the current invention, having apparent fins to hold the cylindrical shaped body within the handlebars. Were Sanger to have an appropriate reflector, Sargis would have a legitimate basis for a portion of the Examiner's rejections. As is, and due to the quite clear distinction between the reflectors of the current invention and Sanger, the combination of Sanger and Sargis cannot support the first and third prong of MPEP

§ 2142, nor support the standards of the following case law.

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. *In Re Geiger*, 815 F.2d 686, 2 U.S.P.Q. 2d 1276 (C.A.F.C. 1987); *In Re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596 (C.A.F.C. 1988). The omnidirectional, hemispherical shaped, multiple facets arranged in a geometric pattern reflector of the current invention is not mentioned in any fashion in the Sanger patent.

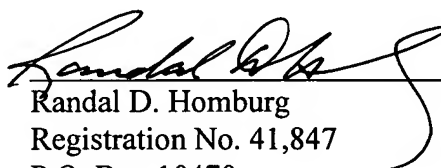
There must be a suggestion or teaching that the claimed novel form of the prior art could or should be used. *See, In Re Cofer*, 354 F. 2d 664, 148 U.S.P.Q. 268 (C.C.P.A. 1966). There must be a “reasonable expectation of success” specified in the prior art usage in the current art. *Fritsch v. Lin*, 21 U.S.P.Q.2d 1739 (B.P.A.I. 1991). Sanger states a limited visibility to the rear of the bicycle only.

The test for combining references is what the combination of disclosures taken **as a whole** would suggest to one of ordinary skill in the art. *In re McLaughlin* 170 USPQ 209 (CCPA 1971). Finally, a reference which leads one of ordinary skill in the art away from the claimed invention can not render it unpatentably obvious. *Dow Chemical Co. v. American Cyanamid Co.*, 816 F.2d 617, 2 U.S.P.Q. 2d 1350 (C.A.F.C. 1987); *In Re Dow Chemical Co.*, 837 F.2d 469 5 U.S.P.Q. 2d 1529 (C.A.F.C. 1988). The reference of Sanger, by its own language, clearly distinguishes the current invention from such prior reference.

## CONCLUSION

The applicant submits that the remarks and applicable law and distinctions drawn put the application in condition for allowance. Applicant therefore respectfully requests that the Examiner withdraw the outstanding rejections contained in the Office Action of July 10, 2003, and pass this application to issue. Applicant and counsel express their appreciation to the Examiner for Examiner's attention and courtesy.

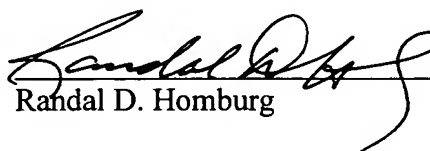
Respectfully submitted;



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### Certificate of Mailing

This is to certify that on the 29 day of August, 2003, the attached and foregoing documents with an appropriate fee, if any, were mailed to MS Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, postage pre-paid, through the United States mails.



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